

Application number: 10/614,919

Art Unit: 3691

Applicant: Khai Hee Kwan

Examiner: Chuks Onyezia, Esq.

Title: System and method for conducting an electronic financial asset deposit auction over computer network.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TO: Commissioner for Patents  
Virginia 22313-1450

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APPEAL BRIEF

ATTEN: Board of Patent Appeals and Interferences

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The following brief is submitted in connection to the above-identified application after Final Rejection mailed Sept 14 2010. A notice of Appeal was filed on Oct 8 2010 with the difference \$15 paid in view of 37 CFR 41.20 when the first notice (Sept 19 2008 - \$255) was paid. No fee differential is required for this Brief as the first appeal brief (Dec 9 2008 - \$270) was subsequent withdrawn after a new rejection was raised by the Examiner in his answer dated April 14 2009 and before a final determination by the Board. By email dated Oct 5 2010, The Appellant also agreed with the Examiner and Supervisor that the claims examined in said Final Rejection are taken from communication dated May 12 2009 and (not May 13 2009 as alluded), said claims will now form the basis of this appeal (in Appendix).

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Thank you.

Yours truly,

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A handwritten signature in black ink, appearing to be 'KH KWAN', with a long horizontal stroke extending to the right.

K H KWAN  
Appellant  
023336

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18 Oct 2010

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**REAL PARTY IN INTEREST**

5 The real party in interest is the Applicant/Appellant, Khai Hee Kwan.

**RELATED APPEALS AND INTERFERENCES**

10 None

15 **STATUS OF CLAIMS**

As per Examiner's Final Action Letter mailed Sept 14 2010, at page 3 at para 4, Claims  
1-3,6,7-9,12, 13-15 and 18-20 rejected under 35 USC 103(a) by US Patent 5613679  
20 (herein 'Casa') and US Patent 7092904 (herein 'Understein')

As per Examiner's Final Action Letter mailed Sept 14 2010, at page 5 at para 11, Claims  
4,5,10,11,16 and 17 rejected under 35 USC 103(a) by US Patent 5613679 (herein 'Casa')  
and US Patent 7092904 (herein 'Understein') and US patent 6363365 (herein 'Kou').

25 All the above rejections are traversed and Claims 1-20 are being appealed.

A copy of said claims 1-20 on appealed are contained in the APPENDIX.

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**STATUS OF AMENDMENTS**

No amendment has been filed subsequent to final rejection.

**SUMMARY OF THE CLAIMED SUBJECT MATTER**

(Pages below are reference to specification unless otherwise stated).

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**A. Claim 1 – Independent Method**

The present invention features a computerized network ( Fig 1) method to determine the best rate for deposits amongst a group of depositors. (page 2 line 9). The host computer receiving bid amount ( page 2 line 13-15) from depositors in this group. The computer selects a winner from said bids in said auction submitted by said depositors ( page 6 line 13-20) and said computer excluding said winner from future auctions (page 2 line 15-17) and depositing pooled funds for said winner's account (page 2 line 18-19 ie - borrower) and it repeats foregoing steps at predetermined intervals with remaining depositors; ( page 2 line 15-17) and whereby at least one depositor has return on deposit. (page 6 at line 17-21, page 13 line 26-27, page 31 at line 13-15)

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**B. Claim 7 – Independent System**

A trusted deposit auction system comprising at least a trusted network consisting of depositors' computers with a host server connected to the network (Fig 1). The host server is a computer with memory and processor to execute program code wherein the program code, further comprising:

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A) code to receive bid amount as a discount from principal or discounted principal from depositors; (page 2 line 13-15)

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B) code to select a winner from said bids in said auction submitted by said depositors; (page 6 line 13-20)

C) code to exclude said winner from future auctions; (page 2 line 15-17)

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D) code to deposit pooled funds for said winner's account; (page 2 line 18-19 ie - borrower)

E ) code to repeat execution of codes A, B, C, D at predetermined intervals with remaining depositors ( page 2 and 15-17); and

- 5 whereby at least one depositor has return on deposit. (page 6 at line 17-21, page 13 line 26-27, page 31 at line 13-15)

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**GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

- 5    A. Whether the examiner's Claim rejection for Claims 1-3,6,7-9,12 13-15 and 18-20 rejected under 35 USC 103(a) by US Patent 5613679 (herein 'Casa') and US Patent 7092904 (herein 'Understein') is sustainable ?

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- B. Whether the examiner's Claim rejection for Claims 4,5,10,11,16 and 17 rejected under 35 USC 103(a) by US Patent 5613679 (herein 'Casa') and US Patent 7092904 (herein 'Understein') and US patent 6363365 (herein 'Kou') is sustainable ?

ARGUMENT

The Appellant traverses all rejections.

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**A. Whether the examiner's Claim rejection for Claims 1-3,6,7-9,12 13-15 and 18-20 rejected under 35 USC 103(a) by US Patent 5613679 (herein 'Casa') and US Patent 7092904 (herein 'Understein') is sustainable ?**

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**Whether the 103(a) rejection is valid ?**

The Casa patent refers to "A method of playing a lottery game wherein a primary random selection from among a group of wagering lottery players is supplemented by a secondary random selection from among a group of potential secondary recipients." (See Abstract).

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In "field of invention" it says "This invention relates to the field of chance selection.

More particularly, it relates to a method of conducting a lottery wagering game wherein a primary random selection of a winner or winners from a group of lottery players is supplemented by the random selection of a secondary prize recipient from a selected

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group." (underlined mine)

Lottery is also defined as "A lottery is a form of gambling wherein wagering players bet on their being selected by chance to win a valuable prize." as in Col 1 line 15. At col 2, line 1-5 Casa defines the issue of novelty for this invention being "With the above in mind, a novel lottery game is needed which would emphasize and capitalize on a lottery's charitable purposes while more directly benefiting the entities for whom, at least in part, the lottery is conducted."

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An example is described as follows “With that in mind, one might begin to carry out the present invention by accepting a monetary wager from at least one lottery player.

Typically, a portion of these wagers will be contributed to a lottery fund from which prizes may be awarded. Each wagering player would be secured a player series of indicia.

- 5 In turn, each player series of indicia would be compared to a revealed winning series of player indicia to determine whether any wagering player is a winning player. This determination would be carried out by ascertaining whether there is a sufficient number of matches between the player series of indicia and the winning series of player indicia as dictated by the sponsoring authority's distribution method. Any winning player would be
- 10 awarded a valuable prize. This primary lottery would be supplemented by the random selection of at least one secondary prize recipient from a selected group.” at col 2 line 35-50. With respect, the claimed invention is not designed to accept a monetary wager as a deposit is placed in order to earn a return from it.

- 15 Casa then explains the secondary winner (ie enhancing public recognition of lottery to benefit recipients such as schools) as follows : “The random selection of a secondary recipient may or may not be dictated by the winning series of player indicia. A random selection of the secondary recipient (i.e. a school) may be accomplished in any of several ways such as by compiling a list of eligible schools, assigning each school a scholastic
- 20 series of indicia, revealing a winning series of scholastic indicia, and determining whether any school is a winning school by comparing the scholastic series of indicia with the winning series of scholastic indicia for sufficient matching. One may surmise that the winning series of scholastic indicia need not be distinct from the winning series of player indicia.” at col 2 line 64 to col 3 line 10. To ensure fairness, each school is then removed
- 25 after each winning to satisfy all. With respect, there is no secondary winner in the claimed invention as the deposit initially placed has to be returned to depositor at the next cycle.

As for the Understein's Patent, this deals with auction and the need to have a 'deposit' before bidding. With respect, this claimed invention and its parent are concerned with depositors as in deposits placed in a financial institution (intermediary) for a financial return and such deposit is not well known to be for buying items in an auction.

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Understein teaches placing funds in a deposit account (intermediary) in order for bidder to bid in an auction (having the funds in a deposit account qualifies the bidder) and said deposit account is used to pay for the item bid if bidder is successful. Understein does not teach whereby deposits (itself) are being offered and where the winner's bid with the highest discount rate will collect deposits from other non-successful bidders as per this claimed invention. Understein described in his abstract "A system and method for qualifying a bidder over a global network for an auction helps to significantly reduce or eliminate commerce fraud. An auction site, for example, enlists the system to maintain bidder funding accounts for prospective bidders. When a bid is placed, the funds are reserved in the bidder's bidder funding account including funds for a deposit if required. In the event that a bidder is not the high bidder, the reserved funds are released. At completion of the auction, the funds may be transferred from the winning bidder's bidder funding account to the seller, and the bid holds are released. A balance in the bidder funding account can be established according to funds deposited in the account in an interest-bearing account or via a line of credit issued from a bank card issuing company or the like." (underlined mine). It is clear from Understein (see underlined), it requires deposit to be held in reserved when a bid is placed and said fund is returned to the bidder not being the winner to eliminate commercial fraud. In contrast, this claimed invention teaches whereby the winner (bidder) will receive the pooled funds (of deposits) from non-winners. In short, non-winners' deposits will be pooled for the winner (not released/returned to the non-winners). There is no issue of fraud as the non-winners must necessary provide the deposits (for winner) in order to receive deposits from others (including immediate previous winner) when it is their turn as winner.

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The claimed invention

As can be seen in step (A), the first round of auction merely requires bids in the form of a discount from principal or discounted principal (which clearly reflects its financial nature). Say the bids are 10,20,15 then discounted principal is merely 90,80,85 (ie assuming principal is 100). It is only when the winner is selected (ie 20-highest) then the deposit equivalent to the winner's bid is pooled for the winner which is 80 (discounted principal). The highest discount is only possible by the auction mode (discovery) rather than by chance or random as in Casa. The claimed invention does not require the winner to place any deposit (discounted principal) to bid is clear and instead he receives the pooled discounted principals (from each of the non-winner in his round). The winning depositor becomes the borrower by receiving all the deposits (discounted principal) and obviously at least one depositor will have return on deposits. The result of this claimed invention can be summed as below :

Cycle	May	Mary	Andrew	Tim	Winner	Bid
1	2100	-700	-700	-700	MAY	300
2	-1000	2400	-700	-700	MARY	300
3	-1000	-1000	2950	-950	ANDREW	50
4	-1000	-1000	-1000	3000	TIM	NA

In cycle 1, May being the winner gets to collect deposits (at 700 each – bidden amount) from others (non-winners) and when it is Mary's turn in cycle 2, she received the principal from May and the bidden amount from others (non-winners) and so on. The (-) negative sign denotes payout deposit to winner.

It is submitted that the deposit account in Understein serves a different purpose which is to eliminate commerce fraud in auctions but by itself does not assist punters in the purchase of lottery tickets. Therefore, Understein is not relevant at all as a 'deposit auction' and therefore its combination with Casa will not result in this claimed invention.

Motivation

The examiner also gave the apparent reason “..providing a secure way of extending credit to participants while assuring payment” (col 1 lines 38-44 of Understein). (page 4 point

5 5)

For completeness, the Appellant prefers to cite the whole paragraph (col 1 lines 38- 52) and it reads “The system according to the present invention enables an auction company to provide a secure way of preventing fraudulent bidding and preventing participation by bidders that fail to settle after winning an auction. The system is preferably an Internet web site that serves to electronically transact the acceptance and verification of deposits from multiple auctions or transactions and participants simultaneously. The system provides an easy to use and efficient method for minimizing fraudulent bidding in multiple auctions simultaneously while being capable of providing insured (such as FDIC) interest bearing deposits held for bidders. The system incorporates a secure web site capable of communicating with numerous auction entities and tracking multiple deposit accounts for participants in a commerce environment simultaneously.” (underlined mine)

While Understein suggests insured FDIC interest bearing deposits, there is nothing to suggests in combining with Casa’s lottery system, this will “providing a secure way of extending credit to participants while assuring payment”. It is submitted that the examiner had mischaracterized Understein when it is merely a solution for fraud minimizer. In contrast, a lottery system is not the same as an auction. In a lottery system, the punters will always be able to purchase their lottery tickets on demand (not auction) hence why the need to extend credit ? And is it logical for participants in a lottery system to be provided with a FDIC account to ensure payment when the cost of a lottery ticket is a certainty (for all participants must pay) and be paid upfront (as opposed to credit) ?

Therefore, for the reasons above both prior arts are not combinable and one skilled in the art would not see the combination is obvious. As a whole, there is nothing to suggest depositors offering their deposits (as a discounted principal) in the form of a bid and the winner taking the pooled funds (from non-winners) . Understein's bid means bidding for an item (in view to purchase) and not for return on deposit amongst each member through repeated auctioning (more than one periods) whereby the immediate winner is removed from bidding as claimed. In arguendo, even if there is the motivation of 'extending credit' (which is denied), the examiner had inappropriately indulged in hindsight analysis and mischaracterised Understein and Casa's in combination. Respectfully as there no known issue of credit in Casa, there is no basis at all for a 103(a) rejection and the following claims ought to be allowed.

**Claims 1,7,13,19**

Using Claim 1 as representative. Claim 7 is a system claim (with similar elements) as compared to a method claim in Claim 1. Similarly Claim 13 is Article of Manufacture for method of Claim 1 and Claim 19 is a system claim for method of claim 1.

In the absence of any explanation, the appellant submits the examiner's considered selecting a winner to read into "lottery" ie random selection is untenable in view of the entire specification which teaches selecting the winner by auction. The examiner had not explained how "lottery" was interpreted (although the legal standard is one of inherency) in an auction when both modes of selecting winners are obviously different. Without

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reasoning how both modes are 'similar' is reached, the applicant respectfully rejects this at page 6 (point 17) of final rejection letter.

Claim's element	Evidence by Examiner from Casa	<u>Comments</u>
receiving bid amount as a discount from principal or discounted principal from depositors;  <i>(note at page 3 of final rejection, in contrast the examiner appears to have missed the words “ <u>or discounted principal</u>”)</i>	Col 2, line 35-51. “With that in mind, one might begin to carry out the present invention by accepting a monetary wager from at least one lottery player. Typically, a portion of these wagers will be contributed to a lottery fund from which prizes may be awarded. Each wagering player would be secured a player series of indicia. In turn, each player series of indicia would be compared to a revealed winning series of player indicia to determine whether any wagering player is a winning player. This determination would be carried out by ascertaining whether there is a sufficient number of matches between the player series of indicia and the winning series of player indicia as dictated by the	There is no evidence or explanation to show how a lottery method is also 'similar' (read as inherently) to an auction or participants in a lottery as a bidder in an auction. An inherency teaching must be necessarily present in the structure described in the applied reference (Casa) (See Continental Can co v Monsanto co., 948 F.2d 1264, 1268 20 USPQ2d 1746, 1749 (Fed Cir 1991)). The examiner must <u>provide extrinsic evidence, rather than opinion disguised as ‘interpretation’</u> , that makes clear that “the missing descriptive matter is necessarily present in the thing described in the reference, and that it would so recognised by persons of ordinary skill.” In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999).

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	<p>sponsoring authority's distribution method. Any winning player would be awarded a valuable prize. This primary lottery would be supplemented by the random selection of at least one secondary prize recipient from a selected group".</p> <p><b>The examiner also asserts "interprets participants of a lottery as bidder of an auction".</b></p>	<p>Casa also did not teach bids in the form of discount from principal or discounted principal. (antecedent in page 24 line 13-16, ie IBM shares example).</p> <p>The examiner failed to show or reason how this is well known in the art for this interpretation to stand.</p>
<p>selecting a winner from said bids in said auction submitted by said depositors;</p> <p><i>(at page 3 of final rejection, in contrast to above as claimed, the examiner stated this</i></p>	<p>Col 2, lines 44-51 "This determination would be carried out by ascertaining whether there is a sufficient number of matches between the player series of indicia and the winning series of player indicia as dictated by the sponsoring authority's distribution method. Any winning player would be awarded a valuable prize. This primary lottery would be supplemented by the random selection of at least one secondary prize recipient from a selected group."</p>	<p>The selection method in Casa is clearly by lottery means (chance) which is not inherently the same as actively selecting from bids <u>by auction</u> (ie highest or lowest).</p> <p>A lottery is a game of chance (random selection) and hence selection is by comparing number of matches between the winning series and player's series. In col 2, line 58-60 "In preferred embodiments, the winning series of indicia will be determined by a central, random drawing." It is submitted that random drawing will not inherently show to one skilled in the art of auction of selecting a winner from bids in</p>

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<i>differently as ‘ selecting the winner from said bids submitted by depositors.’)</i>		<u>an auction</u> . The key is winner from an auction is <b>not</b> the same as by chance in a lottery. The examiner appears to have ignored this in his assessment (see in italic (left)).
excluding said winner from future auctions;	Col 4, lines 11-15 “Since the optimally-preferred embodiment of the invention contemplates each winning entity's being excluded from winning again until all eligibly entities have won, the system ensures that all eligible recipients will benefit.”	Casa teaches “winning entities” as schools or recipients which are not the players (wager) or depositors participating by bidding. And because these recipients are NON-Wager (Col 7 line 10-40) and not being participants they do not satisfy being bidders/depositors (to be excluded later) as asserted by the examiner.
depositing pooled funds for said winner's account;	Col 2 lines 48-49 “Any winning player would be awarded a valuable prize. This primary lottery would be supplemented by the random selection of at least one secondary prize recipient from a selected group”.	There is no suggestion that this valuable prize is pooled funds from depositors (opposed to wager/punter). Furthermore, random selection for a secondary prize is not auction either, as the recipients are not participants (depositors bidding) but passive receiver.

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repeating steps A, B, C, D at predetermined intervals with remaining depositors; and whereby at least one depositor has return on deposit.	Col 4 lines 11-15 “With a large, single-transaction cash award, a recipient entity could undertake and fund significant projects. Since the optimally-preferred embodiment of the invention contemplates each winning entity's being excluded from winning again until all eligibly entities have won, the system ensures that all eligible recipients will benefit.”	Casa's winning entities here refers to schools or recipients which are not participants (depositor bidders) in the claimed invention. They are passive participants for the prize only, they do not bid which is required when said steps are repeated to select a winner from depositors. It is submitted the examiner had mischaracterized Casa's teaching by mixing the winning entities to be participants when they are not. Moreover, the bidders (depositors) in this claimed invention has return on deposit, usually in terms of percentage as seen in Box B in specification page 31 at line 15 and refers to as ROI in said Box (18.3 % and 21.67%) . In contrast, the winning entities (known as 'recipient entity' in Casa) could not have any <u>return</u> on deposit as they NEVER contributed any deposit at the outset or at all.
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- Respectfully, the Appellant asked the Appeal Board to allow above claims. The combination with Understein is also unsustainable for the reasons stated above that it is
- 5 illogical to extend credit and ensure payment for lottery tickets as motivation. With respect to the unexplained interpretation by the examiner of 'participants of a lottery as bidder of an auction', it must be rejected as unsafe in view of the claimed invention as a whole.

**Claim 2.8,14**

Using 2 as representative.

- 5 The examiner provided Casa Col 2 lines 35-51 as evidence to show these claims. The applicant respectfully disagrees. The claim requires the selected winner making a principal repayment in the NEXT interval following the winning interval. In short, this means the winner (wager in Casa) rather than recipient in Casa making a repayment which is unheard of in a lottery. What is the point of a lottery when the winner has to
- 10 repay its principal in each interval ? Casa also did not teach the recipient (See Schools example) having to repay its principal (albeit it did not even participate in the lottery as wager in the first place). Respectfully, the applicant asks the examiner to allow this claims.

15 **Claim 3.9,15**

Using 3 as representative.

- The examiner provided Casa Col 2 lines 35-51 as evidence to show these claims. The
- 20 examiner also states that “interprets the recouping of original investment as a discounted principal”. In this respect, the applicant repeats the requirement of Continental Can co v Monsanto co., 948 F.2d 1264, 1268 20 USPQ2d 1746, 1749 (Fed Cir 1991). The examiner provided no reasoning for the above dubious interpretation which is unknown in the art of lottery. In this claim, each non-winning depositors has to deposit the
- 25 discounted principal (as bided by each selected winner) at each interval which is not found in Casa. How this is recouping original investment when they are paying out ? Say the principal is 100 and the winner bided 30 (discount), each non-winners then give 70 to the winner. How is this “original investment” ? The winner in the next round pays 100 to



each member who had given him the 70 while the non-winners paid whatever is the discounted principal as per claim 3 etc. This is best explained by Box B in specification page 32.

5 NetFlow Box B (Assuming principal is 1000)

	1	2	3	4
Cycle	May	Mary	Andrew	Tim
1	2100	-700	-700	-700
10 2	-1000	2400	-700	-700
3	-1000	-1000	2950	-950
4	-1000	-1000	-1000	3000
Net	-900	-300	550	650
ROI	-30%	-10%	18.30%	21.67%

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In cycle 1, May is winner with highest bid of 300, so she collects 2100 and the others pay 700 each (1000-300) discounted principal. The element of this claim is the 700 (discounted principal) by non-winners but how is this “original investment recoup”? At this stage, May has not even invested any money yet (no original investment to recoup).

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She merely promises to pay the principal (1000) in the each next cycles. In Cycle 2, the winner is Mary with bid of 300, so she merely receives funds. But May has to pay 1000 now (the principal) as per claim 2, which means Mary collects 1000 (may) +700 (Tim) +700 (Andrew). In the third cycle having only Andrew and Tim bidding, Andrew bids 50 and Tim bids 10 so the winner with his bid 50, so he collects 2950 (950 from Tim and

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balance 1000 each from previous winners). In financial terms, we can interpret May receives \$2100 but she pays \$3000 which cost her \$900 interest while Tim receive \$2950 but he paid only \$2400 which means he made \$550 interest. In both cases there is no recouping of original investment amount because what is paid is NOT equal to what is received. The difference is either cost of using the funds or interest earned as represented by the ROI. (negative means cost while positive means return).

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**Claim 6,12,18,20**

Using 6 as representative.

- 5 The examiner provided Col 4 line 11-14 "Since the optimally-preferred embodiment of the invention contemplates each winning entity's being excluded from winning again until all eligibly entities have won, the system ensures that all eligible recipients will benefit."
- 10 As mentioned, the winning entity here refers to the recipient (non-wager - Col 7 line 11 in Casa) of the funds due for charity and not the lottery winners. These are non-wagers and they fail to satisfy being bidders which forms the group to be selected. Even if this is wrong which is denied, these non-wagers do not bid which is required when the step E is repeated.
- 15 Furthermore, there is no teaching in Casa which repeats until one bidder depositor is left or the repeating sessions could not be more than the number of players. It is also unknown in the art of lottery to be able to maintain/fix/limit the number of players (wagers) at the outset in order to repeat the auction until one wager is left.

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**B. Whether the examiner's Claim rejection for Claims 4,5,10,11,16 and 17 rejected under 35 USC 103(a) by US Patent 5613679 (herein 'Casa') and US Patent 7092904 (herein 'Understein') and US patent 6363365 (herein 'Kou') is sustainable ?**

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Claims 4,5,10,11,16,17

The examiner asked the applicant to show that these claims are patentable over a 103(a) rejection in view of Kou (US patent 6363365) and Understein and Casa.

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Claim 4,10,16

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Using 4 as representative which states "The method of claim 1 whereby membership of a depositor to said network is by invitation only and anonymous."

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The examiner asserts that Kou teaches bidding by invitation and gave col 4 lines 34-51 as evidence. The Examiner continued stating " One would find the motivation to combine these teachings in this way, for the purpose of securing the auction network (Kou Col 1 line 5-8)"

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Kou teaches open network such as the Internet where it publishes its invitation electronically to bidders. It is submitted that publishing an invitation does not inherently reveals membership of a network is by invitation only. It is unknown in the art for lottery to be based by invitation only and there is no apparent reason to so restrict in view of Casa. Understein merely states the deposit accounts aids the credibility of the bidder so he can use the deposits to pay for items he bought later to avoid fraud. But anonymity does not go well with the need to setup a FDIC deposit account which is supposed to aid

the credibility of the bidder. With respect, how is one able to improve security over a network by inviting anonymous bidders ?

The examiner asserts that the motivation is for the purpose of securing the auction network ( Kou Col 1 Line 5-8). On closer examination this “securing” is actually a reference to “locked box” for receipt of electronic bids (Kou Col 3 Line 55-60) which has nothing to do with the invitation at all (feature that is to be combined). Casa teaches lottery and begs the question whether there is a need for lottery numbers to be under “locked box” for security (serving a different purpose) since said numbers have no financial value unless it is picked as the winner ?

With respect, after KSR v Teleflex’s decision, the standard is an apparent reason to combine. In *arguendo*, assuming this motivation is equivalent to “apparent reason” to combine, the examiner had also failed to show why is there a need to modify Casa to do so when there is not even a network in Casa for submitting ‘bids’. It is submitted, the examiner had merely pick features to combine with the aid of hindsight which is problematic when the motivation is contrary to practise (how can an auction network be secure with anonymous invitees having deposit accounts wanting to bid lottery tickets, whereby said lottery numbers are kept in ‘locked box’.) ? This is the question that the Examiner has yet to answer to shore up his reasoning.

Therefore, it is clear a 103(a) rejection is unsustainable given as a whole it does not speak of an apparent reason and failed to show all the elements in view of the independent claims.

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**Claims 5,11,17**

Using 5 as representative.

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Claim 5 reads : The method of claim 1 whereby said networks are linked for deposit auction by invitation from at least one member of one network having relationship with at least one member of a target network.

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The examiner suggested that Kou teach the above limitation and provided Kou Col 4 lines 34-51. The examiner however did not provide any apparent reason to combine and Casa fails to show its members (lottery buyers - wager) have to invite other members in a target network. There is also no reason to suggest 'invitation' given wager (in lottery) and auction (as in Understein) are competitive. Furthermore, Kou fails to teach one member  
15 of one network having relationship with another member of a target network so invitation could be send. Again, it is not inherent to show just because an invitation is send, it must also means the sender has a relationship with another member in target network (See example of spam). With respect, it is submitted there is not even a prima facie case for this rejection as no apparent reason to combine was given at all. The appellant  
20 respectfully asks the claims to be allowed.

In summary, the appellant respectfully submits all the claims are allowable and the examiner's rejection is unsustainable for the reasons stated above.

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Much obliged,



K H KWAN  
Appellant.

Appendix

Text of Claims as per this Appeal.

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1. A method for conducting a trusted deposit auction within at least one network connected to at least one depositor's computer comprising:

providing a host server connected to the network that performs steps comprising;

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- A) receiving bid amount as a discount from principal or discounted principal from depositors;
  - B) selecting a winner from said bids in said auction submitted by said depositors;
  - C) excluding said winner from future auctions;
  - 15 D) depositing pooled funds for said winner's account;
  - E) repeating steps A, B, C, D at predetermined intervals with remaining depositors; and whereby at least one depositor has return on deposit.
2. The method of claim 1 wherein pooled funds include funds from each selected winner
- 20 making principal repayment at each predetermined interval beginning from next interval following their respective winning interval.

3. The method of claim 1 wherein pooled funds include a discounted principal from each remaining depositor not selected as winner at each predetermined interval, said discounted principal is based on discount equivalent to the bid amount submitted by selected winner.

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4. The method of claim 1 whereby membership of a depositor to said network is by invitation only and anonymous.

5. The method of claim 1 whereby said networks are linked for deposit auction by invitation from at least one member of one network having relationship with at least one member of a target network.

6. The method of claim 1 whereby said step of repeating at step E is executed until one depositor is remaining or for a fixed number of sessions as agreed at outset of the auction whereby said number of sessions is no greater than number of depositors at outset.

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7. A trusted deposit auction system comprising:

at least a network consisting of depositors' computers;

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a host server connected to the network for deposit auction; wherein said host server further comprising:

a memory having at least one region for storing executable program code; and a

- 5 processor to execute the program code stored in the memory, wherein the program code, further comprising:

A ) code to receive bid amount as a discount from principal or discounted principal from depositors;

- 10 B) code to select a winner from said bids in said auction submitted by said depositors;

C) code to exclude said winner from future auctions;

D) code to deposit pooled funds for said winner's account;

E ) code to repeat execution of codes A, B, C, D at predetermined intervals with remaining depositors; and

- 15 whereby at least one depositor has return on deposit .

8. The system of claim 7 wherein pooled funds include funds from each selected winner making principal repayment at each predetermined interval beginning from next interval following their respective winning interval.



9. The system of claim 7 wherein pooled funds include a discounted principal from each remaining depositor not selected as winner at each predetermined interval, said discounted principal is based on discount the bid amount submitted by selected winner.

5 10 . The system of claim 7 whereby membership of a depositor to said network is by invitation only and anonymous.

11 . The system of claim 7 whereby said networks are linked for deposit auction by invitation from at least one member of one network having relationship with at least one  
10 member of a target network.

12 . The system of claim 7 whereby said code E is executed until one depositor is remaining or for a fixed number of sessions as agreed at outset of the auction whereby said number of sessions is no greater than number of depositors at outset.  
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13 . Computer executable software code stored on a computer readable storage medium implementing the method of claim 1.

14. Computer executable software code stored on a computer readable storage medium  
20 implementing the method of claim 2.

15 . Computer executable software code stored on a computer readable storage medium implementing the method of claim 3.

16 . Computer executable software code stored on a computer readable storage medium  
5 implementing the method of claim 4.

17. Computer executable software code stored on a computer readable storage medium implementing the method of claim 5.

10 18. Computer executable software code stored on a computer readable storage medium implementing the method of claim 6.

19 . A trusted deposit auction system including a computer connected to a network programmed to perform the method of Claim 1.

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20. A trusted deposit auction system including a computer connected to a network programmed to perform the method of Claim 6.

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**Application number:** 10/614,919

**Art Unit:** 3691

**Applicant:** Khai Hee Kwan

**Examiner:** Chuks Onyezia, Esq.

**Title:** System and method for conducting an electronic financial asset deposit auction over computer network.

Evidence Appendix

NONE

**Application number:** 10/614,919

**Art Unit:** 3691

**Applicant:** Khai Hee Kwan

**Examiner:** Chuks Onyezia, Esq.

**Title:** System and method for conducting an electronic financial asset deposit auction over computer network.

Related Proceedings Appendix

NONE